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August 28, 1995

OUR FILE NO.
0090-101-63

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Mr. William F. Caton, Acting Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: MM Docket No. 95-90

Dear Mr. Caton:

On behalf of Meredith Corporation, I transmit herewith an original and fifteen copies of its Comments in the above-referenced proceeding.

If there are any questions concerning this matter, please contact the undersigned directly.

Very truly yours,

Michael H. Bader

Michael H. Bader

MHBapp

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The

Federal Communications Commission

Washington, D.C. 20554

In The Matter Of	)	
	)	
Review of the Commission's Regulations Governing Broadcast Television Advertising	)))	MM Docket No. 95-90

TO: The Commission *en banc*

Comments of Meredith Corporation

Meredith Corporation[1] files these comments on the FCC's inquiry as to the possible abolition of two rules which stimulate and enhance competition in the television business, namely:

(a) the ban on television networks' control of their affiliates' non-network rates, and

(b) the ban on television networks serving as the national sales representatives for their affiliates' non-network business.

Meredith opposes the elimination of these rules because

(a) experience shows that they promote competition,

(b) there is no showing of any need whatsoever to eliminate the rules, and

(c) massive other statutory and regulatory concessions to the networks are in progress, and no one can tell today how these enormous benefits will give the national networks even greater strength and dominance in the national television business.

In brief, the Commission should "put on the regulatory brakes" and observe the development of the networks under these new, highly favorable economic and regulatory concessions. No one can seriously

[1] Meredith is a television station licensee. *See* page 3.

argue that the networks, the public, advertisers or anyone else cannot live without changing these rules. In fact the networks have never had it so good, and this is established without any challenge by one simple fact--they are selling at undreamed of profits to their investors.

The time is here to put the networks to the regulatory test: Do they need any new freedoms (from the FCC or Congress or any other body of government?) It seems that this proceeding is set up the opposite way so as to test the affiliates and advertisers by an inquiry which says, in essence, how much more can government heap on the affiliates without causing competitive harm?

Instead of looking at the "current marketplace" (Notice, p-2, ¶ 2), the Commission should first consider the marketplace that will soon be with us, one in which

(a) television networks can own dozens of stations, not just twelve,

(b) networks can own all the stations they need to cover either 50%[2] of the U.S. population (the FCC proposal in Docket 91-221) or 35% of it (Congress' idea in S.652 and HR 1555),

(c) new networks such as United Paramount and Warner Brothers become realistic players in the field,

(d) the cumulative effects of such already-effective benefits to the networks as Prime Time Access freedom are known, and

(e) the financial syndication rules have been abandoned.

---

[2] Meredith believes that the 50% standard would be contrary to the public standard.

Meredith makes these comments on the basis of nearly a half century of television experience. It now owns six television stations:

KCTV(TV), ch. 5	CBS	Kansas City
WNEM-TV, ch. 5	CBS	Bay City-Saginaw-Flint
KPHO-TV, ch. 5	CBS	Phoenix
WOFL(TV), ch. 35	Fox	Orlando
KVVU-TV, ch. 5	Fox	Henderson-Las Vegas
WSMV(TV), ch. 4	NBC	Nashville

It has owned a number of other stations since its first, WTVH, ch. 5, CBS, Syracuse, went on the air in 1947. It has held affiliations with all networks, including Du Mont! Meredith knows the television station and network business. Meredith television executives have served on network affiliate groups and even as network officials. The President of Meredith's broadcasting stations, Philip A. Jones, is the Chairman of the Joint Board of the National Association of Broadcasters.

Based on its knowledge and experience, Meredith strongly endorses the retention of the two rules under study here. The first one, the ban on network roles in affiliate non-network time sales, is imperative. It gives the station total freedom to price its local and non-network time sales as it sees fit with no interference or pressure from the network.

The second rule, the ban on networks serving as national reps for independently owned stations, is just as important. If the networks were armed with such clout, they could and would rout independent reps, based on their massive economic clout. Meredith believes that the FCC ought to enhance the opportunities for TV reps to exist and function. As more stations take to the air, more reps are needed to maintain service to the non-network stations. Meredith has gone to some expense and effort to assist its national rep in its operations.

In fact, Meredith was instrumental in setting up the rep, an action which reflected its dedication to the independence of TV reps from the TV networks. It has held an interest in the rep, and once the rep's independence and ability to operate in a competitive and healthy environment were clearly established, it sold the operation to its management group.

Both rules, and the strength of independent reps, therefore, provide a balance between the stations and the networks in time sales and economic dominance.

These rules seem so basically sound and essential, that one wonders why the FCC would even consider abolishing them. Meredith understands that one commenter will take the position that the FCC is proposing to act and that its reasoning is based on age alone.[3] That is probably true to a large extent, but Meredith perceives in the Notice a nearly-doctrinaire concept that "rules must go if they say no." Paragraph 30 seems to say that "the networks can get around the rules anyway, so maybe we should junk them." Or, as the Notice puts it,

> Finally, we must address the question of whether our rules effectively prevent the harms they were designed to redress. Can networks currently influence national spot advertising rates indirectly, by using mechanisms other than possible influence or control over affiliates' rates? For example, since a network currently can control the amount of national spot time its affiliates have available to sell during network programming, does this allow the network indirectly to control the affiliates' national spot rates? As another example,

[3] Telerep, Inc. draft comments.

> networks can purchase a local broadcast station rather than affiliate with an independently-owned station, as we have previously mentioned. Thus, an increase in the number of stations owned by the network would seem to increase its influence in the national spot advertising market. We have proposed to authorize group ownership of stations serving up to 50% of the aggregate national audience in the TV Ownership FNPRM. Commenters are requested to address these issues, to suggest any other ways that networks might circumvent the rules and adversely affect the public interest, and to suggest any modifications to our rules that would be appropriate to resolve these concerns. We ask commenters to provide any evidence that networks are using any of these means to manipulate national television advertising rates. If we find that networks, with or without their affiliates, can easily circumvent the advertising rules, then eliminating those rules would appear to cause no additional harm.

This concerns us greatly. The Commission seems to be saying that it will look the other way if the networks are "already getting away with it."

The agency ought to strengthen the rules, not abandon them, if the networks are already "getting away with it."

The Commission seems to rely on the *Golden West* policy[4] for radio stations as some sort of a basis for revoking these television rules. This is a curious approach. There was no network/affiliate issue in *Golden West*. The issue was a rep/station one The radio reps had no program power (and still do not.)

We think *Golden West* has no relevance to this proceeding.

Meredith sees no reason to junk the rules. They maintain a balance between the handful of economic giants which own the networks and the hundreds of smaller local affiliates. No state is going to jump in

[4] 16 FCC 2d 918 (1969).

if an imbalance results from scrapping the rules (a rather odd and naive inquiry as to the states' regulatory or legal role is posed in paragraph 15 on p.9 of the Notice. We think it deserves no more attention than a look of amazement or amusement. Perhaps welfare can be left to the states, but not economic and antitrust policy.)

In any event, Meredith believes that the inquiry comes at the wrong time and in an unrealistic competitive environment because what we live with today is about to change, and the networks of today--huge as they are--will become even larger and more dominant in a year or so.

Consequently, Meredith urges the Commission to terminate this proceeding or at most to shelve it. Today, there is no need to eliminate these rules. Tomorrow they will be even more important to the preservation of competitive balance between the networks and their affiliates.

Respectfully submitted,

MEREDITH CORPORATION

By [signature]
Michael H. Bader
Its Attorneys

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August 28, 1995

* Hand-delivered